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Fresno, California

October 26, 2004

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
Jon Ruiz, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Father Genaro of St. Alphonsus Catholic Church gave the invocation, and President Castillo led the Pledge of Allegiance.

PRESENTATION OF 4TH ANNUAL ORCHID AWARDS - COUNCILMEMBER CALHOUN

Awards were presented to Lu Dwyer, N. Bengston Avenue, for Residential Architecture; to Dr. Lee Ann DuMars, Pet Medical Center & Spa, 621 W. Fallbrook, for Commercial Architecture; Alice Lee, N. Gentry Avenue, for Residential Landscaping; to Stonebridge Community, 6710 N. Stonebridge (6800 N. Marks) for Commercial Landscaping, and Louie Ramirez, W. Alluvial Avenue in Pinedale, for Councilmembers' Special Image.

(Add-on) PRESENTATION OF CERTIFICATES OF COMMENDATION TO SOLID WASTE EMPLOYEES IN EXECUTING WORK ASSIGNMENTS DURING THE GAS LEAK AT THE MUNICIPAL SERVICE CENTER - CITY MANAGER HOBBS

Supervisory employees were recognized and presented with Certificate of Appreciation.

APPROVE MINUTES OF OCTOBER 19, 2004

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the minutes of October 19, 2004, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COMMENDATION TO PARKS AND RECREATION EMPLOYEES JERRY HAYNES AND HEATHER HEINZ, LIONS MEMBERS AND HOME DEPOT FOR PARTICIPATION AND WORK AT LIONS PARK - COUNCILMEMBER BOYAJIAN

Commendation made.

REQUEST TO STAFF TO REINSTATE THE "UNMET NEEDS" SECTION IN THE FY 2006 BUDGET - COUNCILMEMBER DUNCAN

Request made with Councilmember Duncan stating council members appreciated knowing the scope of some of the challenges department have and where Council can help.

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COMMENDATION TO WAL-MART AND SAM'S CLUB EMPLOYEES' FOR THEIR \$14,000 DONATION TO LOCAL POLICE AND FIRE EMERGENCY MEDICAL SERVICES - COUNCILMEMBER DUNCAN

Commendation made.

COMMENDATION TO (1) WAL-MART FOR THEIR \$1,125 DONATION TO SOUTHEAST NEIGHBORHOOD WATCH, AND (2) PUBLIC WORKS STAFF FOR RESPONDING AND REPLACING THE LIGHTING AT PACIFIC UNIVERSITY - COUNCILMEMBER DAGES

Commendation made.

STATE PRESERVATION CONFERENCE AND COMMENDATION TO (1) PLANNING & DEVELOPMENT DIRECTOR YOVINO FOR RECEIVING AN AWARD, AND (2) KARANA HATTERSLEY-DRAYTON FOR HER INVOLVEMENT IN THE ORGANIZATION AND CONFERENCE - COUNCILMEMBER STERLING

Commendations made.

APPROVE AGENDA:

(2:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY ITEMS "A" AND "B":

("A") APPROVE THE MID STATE BOWL REDEVELOPMENT PROJECT

1. JOINT RESOLUTION - APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE RDA AND "MASTER DEVELOPER" NOYAN/FRAZIER PROPERTIES LLC, AND THE SALE OF THE MID STATE BOWL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CLINTON AND WEBER AVENUES

Continued to November 9, 2004.

("B") JOINT HEARING TO CONSIDER AND APPROVE MATTERS RELATING TO THE OLD ARMENIAN TOWN PROJECT BOUND BY "O" STREET, VENTURA STREET, "M" STREET AND FREEWAY 41 IN THE CONVENTION CENTER REDEVELOPMENT PROJECT AREA

1. RESOLUTION - CERTIFYING EIR SCH #2003051046 FOR THE OLD ARMENIAN TOWN PROJECT
2. JOINT RESOLUTION - APPROVING A MASTER DISPOSITION AND DEVELOPMENT AGREEMENT AND RELATED SUMMARY REPORT FOR THE SALE AND DEVELOPMENT OF LAND FOR THE OLD ARMENIAN TOWN PROJECT

Continued to November 30, 2004, at 2:30 p.m.

(3:45 P.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-03-20, CONDITIONAL USE PERMIT NO. C-03-89, AND ENVIRONMENTAL FINDINGS FILED BY LOGAN AND ASSOCIATES ON BEHALF OF SPALDING WATHEN, PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF W. ASHLAN AVENUE AND PARKWAY DRIVE IN COUNCIL DISTRICT 1

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-03-20/C-03-89
2. RESOLUTION - APPROVING CUP NO. C-03-89
3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-2/UGM/cz AND R-3/UGM/cz TO R-2/UGM/cz AND R-3/UGM/cz

Continued to November 9, 2004, with a specific time to be set by staff.

(1-H) RESOLUTION - 31ST AMENDMENT TO AAR 2004-209 APPROPRIATING \$49,000 FOR THE POLICE DEPARTMENT'S HOMELAND SECURITY GRANT PROGRAM - AIRPORTS DEPARTMENT AND POLICE DEPARTMENT

City Clerk Klisch advised the matter was strictly a police department item and not a joint airports/police item as indicated on the agenda. So noted and corrected.

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(4:00 P.M.) CONSIDER THE 418TH AMENDMENT TO MFS RES. 80-420 REGARDING INCREASES TO THE TRAFFIC SIGNAL IMPACT FEE APPROVED BY COUNCIL ON AUGUST 17, 2004

Continued to November 9, 2004.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

CONSIDER CONSENT CALENDAR:

Gloria Torrez stated consent calendar items were not routine and needed to be discussed and voted upon separately citing the large amount of money involved items **1-F** and **1-M**; spoke in opposition to item **1-J** due to the cost and dangerous trucks; relative to **1-P** stated FAX needed to get involved in obtaining grants for bus riders; and relative to **1-T** stated bus riders should get free rides as they do not contribute to the air pollution problem.

Councilmember Boyajian pulled Items 1-I, 1-Q and 1-S, and Councilmember Calhoun pulled item 1-T for discussion.

ADOPT CONSENT CALENDAR:

(1-A) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH ALLRED ENGINEERING FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF) ORGANIC UPGRADE PROJECT, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

(1-B) APPROVE CONTRACT CHANGE ORDER NO. 1 (CCO #1) FOR ADDITIONAL WORK RELATED TO THE GAP PONDING BASIN "T" EXPANSION PROJECT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO SIGN CCO #1 ON BEHALF OF THE CITY

1. RESOLUTION NO. 2004-386 - 34TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$80,000 FOR CCO #1 ASSOCIATED WITH ADDITIONAL WORK RELATED TO THE GAP PONDING BASIN "T" EXPANSION AND STORM DRAINAGE IMPROVEMENTS

(1-C) APPROVE THE PURCHASE OF A 15.2 ACRE PARCEL OF LAND LOCATED ON THE NORTH SIDE OF E. BELMONT AVENUE BETWEEN SUNNYSIDE AND FOWLER AVENUES FROM FANCHER CREEK PROPERTIES, LLC, FOR THE PRICE OF \$548,000; AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, SIGN THE TRANSACTION DOCUMENTS AS NEEDED, AND ACCEPT THE GRANT DEED ON BEHALF OF THE CITY

(1-D) RESOLUTION NO. 2004-387 - 30TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$412,400 FROM THE PARKING FUND RESERVES FOR THE REMODEL OF PARKING GARAGE #9 FOR THE MOVEMENT OF THE PARKING SERVICES UNIT

(1-E) APPROVE ACQUISITION OF STREET EASEMENTS FROM THREE PARCELS FOR THE ELM AVENUE IMPROVEMENT PROJECT; AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE, OTHER RELATED DOCUMENTS AS NECESSARY, AND ACCEPT THE DEEDS OF EASEMENT FOR STREET PURPOSES

(1-F) RESOLUTION NO. 2004-388 - 28TH AMENDMENT TO AAR 2004-209 FOR THE REBUDGET OF CAPITAL PROJECTS TOTALING \$155,200 IN THE AIRPORTS DEPARTMENT FOR CONCURRENCE WITH AIRPORT IMPROVEMENT PROGRAM GRANTS RECEIVED FROM THE FEDERAL AVIATION ADMINISTRATION (FAA)

(1-G) AUTHORIZE THE CITY TO ENTER INTO AN AGREEMENT WITH CALIFORNIA STATE UNIVERSITY, FRESNO (CSUF) TO PROVIDE POLICE SERVICES UNDER THE CONTRACT LAW ENFORCEMENT SERVICES (CLES) PROGRAM

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(1-H) RESOLUTION NO. 2004-389 - 31ST AMENDMENT TO AAR 2004-209 APPROPRIATING \$49,000 FOR THE POLICE DEPARTMENT'S HOMELAND SECURITY GRANT PROGRAM

(1-J) AWARD A REQUIREMENTS CONTRACT IN THE AMOUNT OF \$1,054,334.66 TO CENTRAL VALLEY TRUCK CENTER FOR REAR LOADING REFUSE TRUCKS USED BY THE COMMUNITY SANITATION DIVISION OF THE PUBLIC UTILITIES DEPARTMENT TO PERFORM NEIGHBORHOOD CLEAN-UP ACTIVITIES THROUGHOUT THE CITY

(1-K) RESOLUTION NO. 2004-390 - 29TH AMENDMENT TO AAR 2004-209 TO RE-BUDGET \$455,800 TO COMPLETE ENERGY EFFICIENCY MEASURES AT THE MUNICIPAL SERVICE CENTER (MSC) AND CITY HALL AS PLANNED WITHIN THE MSC SOLAR POWER/ENERGY EFFICIENCY PROJECT

(1-L) AWARD A CONTRACT TO STEVE DOVALI CONSTRUCTION IN THE AMOUNT OF \$116,800 FOR CONSTRUCTION OF RECLAMATION WATER SYSTEM PRESSURE BOXES AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

(1-M) AUTHORIZE THE PUBLIC WORKS DIRECTOR TO APPROVE THE FRESNO YOSEMITE INTERNATIONAL AIRPORT AIR CARGO PROJECT CONTRACT CHANGE ORDER (CCO) NO. 3 IN THE AMOUNT OF \$894,461

(1-N) RESOLUTION NO. 2004-391 - 33RD AMENDMENT TO AAR 2004-209 APPROPRIATING \$97,700 IN GRANT FUNDS FROM THE STATE OF CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

(1-P) RESOLUTION NO. 2004-392 - AMENDING AND SUPERCEDING RES. 2004-376 APPROVING THE APPLICATION FOR AND ACCEPTANCE OF GRANT FUNDS FOR THE STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 FOR A BIKE PARK OR A DUAL-PURPOSE BIKE AND SKATEBOARD PARK

(1-R) GRANT JVD INC. RELIEF FROM THEIR BID DUE TO AN INADVERTENT CLERICAL ERROR, AND REJECT THE REMAINING BIDS FOR CONCRETE REPAIRS ON N. EIGHTH STREET, FROM ROBERTS AVENUE TO BULLARD AVENUE

(1-U) BILL NO. B-106 - ORDINANCE NO. 2004-111 - AMENDING SECTION 9-811 OF THE FRESNO MUNICIPAL CODE RELATING TO THE MAINTENANCE AND SECURITY OF VACANT BUILDINGS WITHIN THE CITY

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(2-C) APPROVE AGREEMENTS WITH RAPULA SCULPTURE AND BEER MONUMENTS FOR SERVICES PROVIDED FOR THE LAO HMONG AMERICAN WAR MEMORIAL MONUMENT AND AUTHORIZE AUTHORITY NECESSARY FOR CONTRACT AMENDMENTS

Mayor Chief of Staff White gave a detailed review of the issue, all as contained in the staff report as submitted, and recommended approval **(2 - 0)**. Councilmember Dages stated he sat on the committee and the Mayor did a great job, spoke to the success of the private financial contributions and fundraising efforts, and made a motion to approve as recommended. The motion was seconded and acted upon after brief comments by Councilmember Sterling and President Castillo who also spoke in support and commended all involved.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the agreement with Rapula Sculpture for the design, engineering, creation and production oversight of the sculpture hereby approved, the agreement with Beer Monuments, Inc., for the design layout of the inspection, inscription engraving on the granite base, and delivery of the base to the project site approved, and authority necessary for contract amendments authorized, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(2-D) RESOLUTION NO. 2004-393 - SUPPORTING PROPOSITION 1A TO PREVENT THE STATE FROM FURTHER TAKING LOCAL GOVERNMENT REVENUES

Mayor Chief of Staff White gave an overview of the issue, elaborated on the proposition and what it would provide for, and urged Council's support. President Castillo clarified he wholeheartedly supported the proposition even though he did not sign the letter from Council that was published in the Fresno Bee.

Speaking in support of the issue were: Gloria Torrez, and Barbara Hunt, 2475 S. Walnut.

Councilmember Calhoun clarified issues relative to Proposition 65, commented on the issue at length, and expressed his support and made a motion to adopt the resolution. Councilmember Sterling seconded the motion and commended the Mayor.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-393 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(9:15 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

APPEARANCE BY BARBARA HUNT REGARDING INABILITY TO SPEAK ON THE HOPE VI PROJECT ON 10/19/04, AND ILLEGALITY OF THE COUNCIL ACTING AS THE REDEVELOPMENT AGENCY

Appearance made.

APPEARANCE BY GLORIA TORREZ URGING EVERYONE TO VOTE ON NOVEMBER 2, 2004

Appearance made.

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(2-A) BILL NO. B-113 - ORDINANCE NO. 2004-112 (EMERGENCY ORDINANCE FOR INTRODUCTION AND ADOPTION) - ADDING SECTION 8-221 TO ARTICLE 2 OF CHAPTER 8 OF THE FRESNO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA DISPENSARIES (MMDs)

Chief Dyer gave an extensive overview of the issue, all as contained in the staff report as submitted, stated this was a health and safety issue and he felt strongly about the adverse impact that could occur here after contacting other cities who have MMDs, and urged Council's support.

Barbara Hunt, 2475 S. Walnut, spoke in support of legalizing marijuana.

Councilmember Calhoun spoke to the issue and the misconceptions of medical marijuana at length, stated his support of the issue and commended the police and city attorney departments stating this was part of educating the public, and made a motion to approve staff's recommendation.

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Lengthy discussion ensued. Councilmember Duncan presented questions relative to whether all the controversial issues with federal law had been resolved and if this ordinance was targeted at un-reputable sources/care givers (with City Attorney Montoy and Chief Dyer responding), and commented and expressed his concerns with the issue stating it was a philosophical one with him as selling drugs was wrong and he could not support sanctioning the sale of something so destructive to people. Acting President Perea questioned if staff saw this as sanctioning drug use and what mobile vendors would look like (with Chief Dyer responding), seconded the motion on the floor, and expressed his support stating this was a move in the right direction and spoke briefly to his districts' challenges. Chief Dyer, Deputy City Attorney Skiles and City Attorney Montoy responded to questions and/or comments of Councilmembers Sterling, Boyajian, Dages and President Castillo relative to whether the police department has knowledge of those who have legal prescriptions for medical marijuana, if the department has thought about health concerns of those who can not afford to pay and establishing some kind of registration for dispensaries who cater to those people **(3 - 0)**, need to have controlled areas and be compassionate/listen to those in need, the 1996 law and implementation method, if anyone could be a dispenser, how legal entrepreneurs/doctors can be restricted from dispensing, if this ordinance will target unlicensed dispensaries, if there would be avenues available to the innocent sick people that the law was intended for to get medical marijuana, if this ordinance will not affect those in the county, if the sale of marijuana can be prohibited in the city, Councilmember Dages stating he can not support something that allows the sale of illegal drugs, the zoning ordinance that will be coming forth, if state law defined "care giver" and definition of primary care giver, if the current state law does not specify two patients, what legal right a police officer has to ask a person if they need medical marijuana, when Fresno county is going to adopt a similar ordinance, if staff will talk with the County Counsel about having the same type of ordinance to eliminate loopholes, Councilmember Boyajian clarifying state law sanctions the use of medical marijuana and the city ordinance's intent is to restrict dispensaries, cooperative growth, and the finding that this is a health and safety ordinance.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-113 adopted as Emergency Ordinance No. 2004-112, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Sterling, Castillo
 Noes : Dages, Duncan
 Absent : None

(10:00 A.M.) HEARING TO CONSIDER THE VACATION OF THE NORTHWEST FOUR (4) FEET OF AMADOR STREET BETWEEN "H" AND BROADWAY STREETS, RESERVING A PUBLIC UTILITY EASEMENT OVER A PORTION OF THE AREA TO BE VACATED (VAGABOND PROJECT)

1. RESOLUTION NO. 2004-394 - ORDERING THE VACATION OF THE ABOVE

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kim reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking in support were: Jeff Roberts, on behalf of the Vagabond project; and Barbara Hunt, 2475 S. Walnut.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Councilmember Sterling thanked Granville Homes and Pyramid on the project and spoke in support, Mr. Roberts responded briefly to questions of Acting President Perea relative to the project time line and status, and Acting President Perea stated this project should be a priority in the planning & development department.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-394 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(10:05 A.M.) HEARING TO CONSIDER THE VACATION OF A PORTION OF JAMES STREET BETWEEN HERNDON AVENUE AND ELGIN STREET, AND FARRINGTON STREET BETWEEN FREEWAY 99 AND HERNDON AVENUE

1. RESOLUTION NO. 2004-395 - ORDERING THE VACATION OF THE ABOVE**144-144****10/26/04**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Mr. Kirn responded briefly to questions of Councilmember Calhoun relative to a prior item, the site location, and if this would not have an adverse impact on proposed development in the area.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-395 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

(10:10 A.M.) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 78, TRACT MAP NO. 5078

1. RESOLUTION NO. 2004-396 - ANNEXING TERRITORY

2. RESOLUTION NO. 2004-397 - CALLING A SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2004-398 - DECLARING ELECTION RESULTS

4. BILL NO. 2004-114 - ORDINANCE NO. 2004-113 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted, recommended approval, and responded briefly to questions of President Castillo relative to the annual fee and increases.

Barbara Hunt, 2475 S. Walnut, questioned where the fees went with President Castillo responding.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-396, 2004-397 and 2004-398 hereby adopted, and the above entitled Bill No. B-114 adopted as Ordinance No. 2004-113, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

(10:15 A.M.) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 80, FINAL TRACT MAP NO. 5228

1. RESOLUTION NO. 2004-399 - ANNEXING TERRITORY

2. RESOLUTION NO. 2004-400 - CALLING A SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2004-401 - DECLARING ELECTION RESULTS

4. BILL NO. 2004-115 - ORDINANCE NO. 2004-114 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director

Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who questioned if affected people were notified of the hearing; and Jeff Roberts, on behalf of Granville Homes, who stated he supported staff's recommendation.

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Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by President Castillo, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-399, 2004-400 and 2004-401 hereby adopted, and the above entitled Bill No. B-115 adopted as Ordinance No. 2004-114, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(10:20 A.M.) HEARING ON PLAN AMENDMENT NO. A-03-16, REZONE APPLICATION NO. R-03-77, AND ENVIRONMENTAL FINDINGS, FILED BY COPPER RIVER RANCH, PROPERTY LOCATED ON THE NORTHEAST AND SOUTHEAST CORNER OF N. FRIANT ROAD AND E. COPPER AVENUE IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-16/R-03-77

2. RESOLUTION NO. 2004-402 - AMENDING THE 2025 FRESNO GENERAL PLAN AND WOODWARD PARK COMMUNITY PLAN

3. BILL NO. B-116 - ORDINANCE NO. 2004-115 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-3/UGM/cz TO C-1/EA/UGM/cz for 2.0 ACRES, AND FROM R-1/EA/UGM/cz TO P/EA/UGM/cz FOR 0.37 ACRE

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Sanchez reviewed the issue at length as contained in the staff report as submitted **(4 - 0)**, displaying a map and a conceptual development plan on the overhead to illustrate.

****Fresno High School SWAT Members were recognized and welcomed.**

Speaking to the issue were: Jeff Roberts, on behalf of Copper River Ranch, who stated he concurred with staff's recommendation and spoke further to project issues; Barbara Hunt, 2475 S. Walnut, who spoke in opposition; and Michelle Sykes, 10250 N. Westshore Drive, representing Woodward Lakes Home Owner's Association and Coalition for Community Trails, who spoke in support.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Councilmember Duncan made a motion to approve staff's recommendation and thanked everyone involved for working together and finding common ground. Councilmember Calhoun agreed with Councilmember Duncan and requested and encouraged groups/individuals to consider planting trees along the trail that runs from Woodward Park to the Coke Hallowell center.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. A-03-16/R-03-77, dated July 27, 2004, hereby approved; the above entitled Resolution No. 2004-402 amending the 2025 Fresno General Plan and Woodward Park Community Plan hereby adopted with the three (3) conditions outlined in the staff report; and the above entitled Bill No. B-116 amending the subject property adopted as Ordinance No. 2004-115, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(10:30 A.M.) DISCUSSION REGARDING SMOKING IN PUBLIC PARKS WITH DIRECTION TO STAFF AS NEEDED - ACTING PRESIDENT PEREA

Acting President Perea stated he wanted Council to consider directing staff to draft an ordinance that would create smoke-free parks, spoke to his involvement in a youth clean-up effort at Einstein Park and the problem encountered with cigarette butts, advised the interim parks and recreation director and the Mayor were in support of this, stated young children picking up cigarette butts and putting them into their mouths was a health issue and a problem for many families who use parks as their only means of recreation, and made a motion to direct the city attorney to return with a draft ordinance on November 30th making parks smoke-free, which motion was seconded and later acted upon.

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At the request of President Castillo members of a youth coalition group displayed the large plastic bag they brought containing thousands of cigarette butts that were picked up at Einstein Park, and President Castillo stated he wished something could be done about people who toss cigarette butts out of car windows and added it was his sense that people who smoke and litter have little respect for others.

Susan Pearman, San Joaquin Valley Health Consortium, spoke further to the problem of cigarette smoke, surveys conducted, and the youth coalition whom she stated has been working hard on the "Kicking Butts Out of Our Parks" project and introduced three members, with one of the members speaking further to the groups' effort and project.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to the need for smoking sections for smokers; Sherry Vake Director, American Cancer Society, support for the ordinance; Josette (last name inaudible), President and CEO of the American Lung Association of Central California, 4948 N. Arthur, support for the ordinance; Gloria Torrez, who spoke to need to expand the ordinance to include bus stops stating the same problems and health issues occur there (with President Castillo stating Ms. Torrez make a good point and asked the motion-maker to consider that); and Danielle Pacheco, CSUF student, support for the ordinance.

Councilmembers Calhoun and Sterling spoke to, and in support of, the ordinance, to personal health-related issues, and to the need to be sensitive to the rights of people, and thanked all who participated in the clean up effort. Councilmember Duncan acknowledged Council was concerned with the health and safety of everyone but stated when it comes to prohibiting people from enjoying a legal activity Council needed to be very careful and deliberate, stated it was his opinion after much review and research that this was not the right thing to do at this time and pointed out the city attorney was being asked to create a law and a law needed to be based on more than just the right thing to do, advised he has been unable to find any legitimate science that indicates that infrequent exposure in a park environment creates any particular hazard to anyone, advised there were smoking and litter laws already in place to deal with problems but they were not enforced, spoke to other things that are just as harmful to children, and recommended this be done on a voluntary basis by putting up signs asking people not to smoke stating that would be more effective without taking away peoples' rights. Councilmember Dages stated this was another personal issue for him and explained, and commended Acting President Perea on the issue stating smoking was a dirty habit and serious issue **(5 - 0)**.

Upon question of President Castillo, Acting President Perea stated he would keep his motion as is and not include bus stops. President Castillo commented on the problems of second-hand smoke and cigarette butt littering and stated his support for an ordinance.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the city attorney directed to draft and return with an ordinance by November 30th making parks smoke-free, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	Duncan
Absent :	None

Councilmember Calhoun advised the issue of making the Fresno City College campus a smoke-free campus was taking place at this time at the college and stated that was healthy and he felt it would move in this same direction.

(11:00 A.M.) ACCEPTANCE OF CIVIL SERVICE BOARD RECOMMENDATION THAT ELECTED OFFICIALS' (MAYOR AND CITY COUNCIL) COMPENSATION REMAIN THE SAME

Personnel Director Gonzales introduced Civil Service Board (CSB) Chair Boggess and advised she and Ms. Boggess were available to answer any questions.

Barbara Hunt, 2475 S. Walnut, spoke to the CSB's charge and need for cost of living increases.

Councilmember Calhoun thanked the CSB for the time they spent on this issue; gave an overview of his memo as submitted to Council which included the process undertaken by the CSB and the County Board of Supervisors' salaries (double that of city elected officials) and their adopted method of automatic pay raises linked to Superior Court Judges; as an elected official and taxpayer encouraged the Board of Supervisors to consider adopting an ordinance similar to Fresno's; requested in the future the CSB not restrict itself to other cities in their next survey and compare apples to apples stating he worked every bit as hard as the Board of Supervisors and he did not get an automatic pay raise; stated this was a fairness issue and noted the Board's salary was just about what the city pays the Mayor; and made a motion to accept the CSB's recommendation to keep Council's salary at the current level.

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Councilmember Boyajian spoke to the history of the issue stating it started with a request to look at a cost of living increase and somehow got "all messed up", and elaborated on the issue expressing his frustration, stated it was up to Council to look at a better way of addressing this issue, and presented questions relative to why a cost of living provision was not included in the ordinance as originally intended and how that matter could be brought back for inclusion in the ordinance, with City Attorney Montoy responding. Councilmember Duncan stated he might bring something forth in the future to eliminate this process stating the Mayor and City Council were elected positions and not civil service positions; clarified he appreciated the work of the CSB but his desire was to eliminate the process altogether and added if this Council felt compelled to raise the salary for the next body of elected officials that was legitimate and a public debate needed to occur out in the open and not go through the cover of the CSB; and stated the Board of Supervisors did exactly what should not be done which was "dodge the bullet" and explained, and also encouraged the Board to eliminate their current pay method and put their compensation before the public for an honest debate. Upon question of President Castillo, Ms. Montoy clarified the motion was to accept the recommendation of the CSB. President Castillo stated he preferred the motion be to accept the report, which was accepted by the motion-maker. President Castillo seconded the motion and spoke to the issue at length stating council's salary schedule keeps good people from running for office, concurred the City Council had a huge responsibility which was no less than the Boards' and stated for this council to say salaries should remain the same or not take up the discussion and institute a salary increase was cowardly; and stated it might be time to look at making these full-time positions and explained and spoke to the work required of a council member 24/7 and to those who also have outside/part-time jobs. Councilmember Duncan stated President Castillo's comments did not speak for him.

On motion of Councilmember Calhoun, seconded by President Castillo, duly carried, RESOLVED, the report of the Civil Service Board hereby accepted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(2-B) RESOLUTION NO. 2004-403 - 35TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$572,000 FROM THE SALE OF THREE PISTON HELICOPTERS AND ASSOCIATED AVIONICS PARTS FOR THE DOWN PAYMENT ON ONE EUROCOPTER 120 TURBINE HELICOPTER AND THE PURCHASE OF ASSOCIATED AVIONICS PARTS

1. RESOLUTION NO. 2004-404 - APPROVING THE ALLOCATION OF \$120,000 FROM CONTINGENCY IN THE ASSET FORFEITURE FUND FOR THE FY 2005 ANNUAL LEASE PAYMENT ON ONE EUROCOPTER 120 TURBINE HELICOPTER

2. AUTHORIZE THE PURCHASING MANAGER TO PURCHASE A EUROCOPTER 120 TURBINE HELICOPTER FROM AMERICAN EUROCOPTER INCLUDING FACTORY INSTALLED AVIONICS AT AN INCREASED PRICE OF \$1,467,700

A motion and second was made to approve staff's recommendation.

Barbara Hunt, 2475 S. Walnut, spoke in support.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above Resolution Nos. 2004-403 and 2004-404 hereby adopted, and the purchasing manager authorized to purchase a Eurocopter 120 Turbine helicopter from American Eurocopter including factort installed avionics at an increased price of \$1,467,700, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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LUNCH RECESS - 12:20 P.M. - 2:00 P.M.**CONTESTED CONSENT CALENDAR ITEMS:****(1-I) REJECT ALL BIDS FOR A REQUIREMENTS CONTRACT FOR WATER QUALITY TESTING (REBID)**

Councilmember Boyajian spoke to the background of the issue, noted there were inconsistencies here and the city keeps changing the requirements, and stated he supported awarding the bid to The Twining Laboratories and not going out to bid again and made a motion to award the bid to Twining.

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Upon question of President Castillo, City Attorney Montoy clarified the motion was impermissible due to process and advised Council could either reject the bids or refer the matter back to staff.

Water System Manager Martin, Joseph (last name inaudible), Twining Laboratories Quality Assurance Manager, and an unidentified APPL, Inc., representative responded to Councilmember Boyajian's questions/comments/concerns relative to the process, requirements, inconsistencies, required certifications, communication with city staff **(6 - 0)**, the lowest bidders, change in prices since the first bid, and if the project should be re-bid or if Twining was able to do the job. Councilmember Boyajian made a motion to refer the matter back to staff due to the number of inconsistencies, the fact that Twining had done the job before, and the savings the city would realize, which motion did not receive a second.

Ms. Montoy, General Services Director Nerland, City Manager Hobbs and Mr. Martin responded to questions of President Castillo and/or clarified issues relative to the process if the matter is referred back, the background/history/circumstances of the issue, the staff report indicating standards being too stringent, why staff wanted to make standards less stringent, process for holding a vendor accountable, if staff could just sit down with the vendor and work out contract details, perception that staff is looking for ways to sanction a noncomplying company and how that can result in additional bidders, and if an even playing field is guaranteed if the bids were to be rejected.

On motion of President Castillo, seconded by Councilmember Duncan, duly carried, **RESOLVED**, all bids for the requirements contract for water quality testing hereby rejected and staff directed to revise the specifications and rebid the project, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

(1-Q) BILL NO. B-117 - BILL FOR INTRODUCTION AMENDING TEXT AMENDMENT APPLICATION NO. TA-04-02 OF THE ZONING ORDINANCE OF THE FRESNO MUNICIPAL CODE AND ENVIRONMENTAL FINDINGS RELATING TO THE TEMPORARY WAIVER OF A UGM FIRE STATION DEVELOPMENT RESTRICTION

Fire Chief Bruegman responded to questions of Councilmember Boyajian relative what developments would be influenced by this action and the location, whereupon Councilmember Boyajian made a motion to approve staff's recommendation. Chief Bruegman, City Manager Hobbs and Planning & Development Director Yovino responded to questions and/or comments of Councilmembers Dages, Sterling and President Castillo relative to requirement for fire sprinklers, if there was no need for a fire station, perception of this being a stepping stone to require fire sprinklers in all residential homes and concern with lack of public input, how this relates to the No Neighborhood Left Behind (NNLB) program, why this text amendment was needed, and funding source.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the environmental finding of No Possibility of Significant Environmental Effect prepared for this project hereby approved, and the above entitled Bill No. B-117 introduced before the Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(1-S) BILL NO. B-118 - BILL FOR INTRODUCTION AMENDING CHAPTER 6, ARTICLE 12 OF THE FRESNO MUNICIPAL CODE REGARDING REGULATION OF PRIVATE PATROL OPERATORS

Chief Dyer responded to questions of Councilmembers Boyajian and Duncan relative to which police cars would be affected, what protections were in place for businesses in case a new police chief wanted to change insignias, etc., again in the future, if the affected private patrol operators (PPOs) had been informed of the proposed changes, and specifics relative uniform colors and badges.

On motion of Councilmember Boyajian, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-118 introduced before the Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(1-T) BILL NO. B-109 - ORDINANCE NO. 2004-116 - AMENDING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE ALLOWING FREE PARKING FOR QUALIFIED LOW EMISSION VEHICLES (LEVs) AT METERS AND VARIOUS SELECT CITY-OWNED FACILITIES (PERMANENTLY CHANGES THE PRIOR ORDINANCE THAT CALLED FOR A 1-YEAR TEST PERIOD)

Councilmember Calhoun stated since this bill was introduced he became aware that a potentially larger number of vehicles would be able to park free than he originally thought and a whole new group of hybrids would be coming in 2005 and explained; expressed his concerns with the ordinance stating he felt the people who are buying these vehicles were buying them for their gas mileage and not to promote cleaner air, the people are not poor and can afford the vehicles and should not be subsidized, the ordinance/issue does not meet the fairness test, and parking revenues would be lost; advised a transportation study was being started that would transform the face of Fresno and he felt this issue would be an excellent one for staff to study; and stated this matter was premature and not in the best interest of the city and made a motion to postpone the issue until the city of Fresno transportation study is brought forth to council for action and added the postponement would keep the test period in place. Upon call the motion died for lack of a second. Councilmember Calhoun made another motion to reject the item and refer the ordinance back to staff to be amended to allow for ½ price parking for qualified LEVs and free parking at meters for LEVs. Upon call, that motion died for lack of a second. Councilmember Calhoun stated in light of not even studying the issue Council should at least charge people one-half the cost and not give away the store.

City Attorney Montoy and Transportation/Parking Affairs Manager Madewell responded to questions and/or comments of President Castillo and Councilmember Boyajian relative to whether the ordinance could be rescinded/amended in the future if 90% of the city is using hybrid vehicles, request for clarification on the one year test period, **(7 - 0)**, and incentives and the importance of the city being a leader and offering incentives. Councilmember Duncan stated as a happy owner of a Toyota Prius who does his part to help clean the air, gets 50 miles to the gallon, and who has a subject parking pass, he would be abstaining in the vote.

On motion of Councilmember Dages, seconded by President Castillo, duly carried, RESOLVED, the above entitled Bill No. B-109 adopted as Ordinance No. 2004-116, by the following vote:

Ayes : Boyajian, Dages, Perea, Sterling, Castillo
 Noes : Calhoun
 Absent : None
 Abstain : Duncan

(2:00 P.M. #1) CLOSED SESSION:

(A) REGULAR CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO POLICE OFFICERS' ASSOCIATION (FPOA MANAGEMENT UNIT)

(B) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY - CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: COF V. CLIFFORD TUTELIAN, ET AL., FRESNO SUPERIOR COURT CASE NO. 03 CE CG 02180 DSB

The City Council met in regular closed session and joint closed session with the RDA in Room 2125 at the hour of 3:03 p.m. to consider the above issues and adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the Council, the hour of 3:29 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

Approved on the 9th day of November, 2004.

/s/

ATTEST: _____

/s/

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk